

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

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|-------------------------------------|---|----------------------------------|
| PHILLIP NATHAN KERCH, | : | |
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| Plaintiff, | : | |
| | : | |
| v. | : | No. 4:19-cv-00105-CDL-MSH |
| | : | |
| TIMOTHY WARD, <i>et al.</i>, | : | |
| | : | |
| Defendants. | : | |
| | : | |

ORDER OF DISMISSAL

Plaintiff Phillip Nathan Kerch, a prisoner in Rutledge State Prison in Columbus, Georgia, filed a handwritten document, which was docketed in this Court as a civil rights complaint under 42 U.S.C. § 1983. Compl., ECF No. 1. He did not, however, use the required § 1983 complaint form. *See id.* Accordingly, Plaintiff was previously ordered to submit a properly completed 42 U.S.C. § 1983 form. Order to Recast, ECF No. 11. Plaintiff was given twenty-one days to comply with the order and was informed that his failure to do so could result in the dismissal of this action. *Id.*

Thereafter, Plaintiff failed to comply with the order to recast his complaint within the allotted time. Accordingly, he was ordered to show cause why this case should not be dismissed for failure to comply with the previous order. Order to Show Cause, ECF No. 12. Plaintiff was again given twenty-one days to comply and was cautioned that his failure to respond would result in the dismissal of this action. *Id.*

More than twenty-one days have now passed since the entry of the order to show cause, and Plaintiff has not responded to that order. Thus, because Plaintiff has failed to

comply with the Court's orders or otherwise prosecute his case, his complaint is **DISMISSED WITHOUT PREJUDICE**. *See* Fed. R. Civ. P. 41(b); *Brown v Tallahassee Police Dep't*, 205 F. App'x 802, 802 (11th Cir. 2006) (per curiam) ("The court may dismiss an action *sua sponte* under Rule 41(b) for failure to prosecute or failure to obey a court order.") (citing Fed. R. Civ. P. 41(b) and *Lopez v. Aransas Cty. Indep. Sch. Dist.*, 570 F.2d 541, 544 (5th Cir. 1978)).

SO ORDERED, this 22nd day of October, 2019.

s/Clay D. Land
CLAY D. LAND
CHIEF U.S. DISTRICT COURT JUDGE
MIDDLE DISTRICT OF GEORGIA